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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHEL GELINAS,)	NO. CV-08-02137 (RMW)
)	
Plaintiff,)	
)	AMENDED NOTICE OF HEARING ON
v.)	MOTION TO DISMISS OR IN THE
)	ALTERNATIVE TRANSFER
THE BERGQUIST COMPANY,)	OR STAY PROCEEDINGS
)	
Defendant.)	New Date: September 19, 2008
)	New Time: 9:00 A.M.
)	Dept: Courtroom #6, 4th Floor

PLEASE TAKE NOTICE that Defendant The Bergquist Company, hereby moves the Court for an order dismissing the above-entitled action.

The Motion is based upon the ground, among others, that there is a previously filed action involving the same Plaintiff and Defendant named in this action, and the same subject matter, currently pending in the United States District Court for the District of Minnesota in the action: *The Bergquist Company v. Michel Gelinas*, Court File No. 08-CV-00569. Because the Minnesota action was first filed and concerns the same parties and subject matter as this case, Defendant respectfully



1 requests that this action be dismissed, stayed, or transferred to the District of Minnesota.

2 This Motion is supported by all files, records, and other proceedings in this matter, including
3 Bergquist's Brief and Declaration in support thereof.

4 Dated: August 5, 2008

5 /s/ Richard Osen

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CASE TITLE: *Michel Gelinas v. The Bergquist Company*

COURT/CASE NO: U.S.D.C. Northern District of California Case No. 08-CV-02137 (PVT)

PROOF OF SERVICE

I am employed in the County of Sacramento; my business address is 555 Capitol Mall, 9th Floor, Sacramento, California 95814. I am over the age of eighteen years and not a party to the foregoing action.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 5, 2008 I served the within:

(1) AMENDED NOTICE OF HEARING ON MOTION TO DISMISS OR IN THE ALTERNATIVE TRANSFER OR STAY PROCEEDINGS



by mail on the following party(ies) in said action, in accordance with Code of Civil Procedure § 1013a(3), by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At McDonough Holland & Allen PC, mail placed in that designated area is given the correct amount of postage and is deposited that same day, in the ordinary course of business, in a United States mailbox in the City of Sacramento, California.



by personally delivering a true copy thereof, in accordance with Code of Civil Procedure § 1011, to the person(s) and at the address(es) set forth below.



by overnight delivery on the following party(ies) in said action, in accordance with Code of Civil Procedure § 1013(c), by placing a true copy thereof enclosed in a sealed envelope, with delivery fees paid or provided for, and delivering that envelope to an overnight express service carrier as defined in Code of Civil Procedure § 1013(c).



by facsimile transmission, in accordance with Code of Civil Procedure § 1013(e), to the following party(ies) at the facsimile number(s) indicated:

Lisa M. Chapman (SBN118113)
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Tel: (650) 320-7700
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on August 5, 2008


MARTI GEHRIG